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The Art of Life Series

Marriage and Divorce

By John Haynes Holmes

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The Art of Life Series

Marriage and Divorce

THE ART OF LIFE SERIES
Edward Howard Griggs, Editor

Marriage and Divorce

BY

JOHN HAYNES HOLMES
Minister of the Church of the Messiah, New York.
Author of *The Revolutionary Function of the Modern Church.*

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B. W. HUEBSCH
1913

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TO MY WIFE
MADELEINE
AND MY CHILDREN
ROGER AND FRANCES

FOREWORD

This little book had its origin in a sermon preached to my people a year ago, and is intended as nothing more than an outline sketch of the most sadly tangled problem of our time. I have endeavored, as best I can, to correct the extravagances both of those who would regard marriage as an indissoluble relation, and of those who would regard it as a free-will compact; and to set forth that conception of the institution which would recognize at once the rights of the individual heart and the equal rights of the social whole. In its theories both of marriage and divorce, this book must be regarded as an application to a particular problem of the one great truth which underlies all my present thinking—that the highest individualism, which must be

the goal of all progress, is to be secured only through the widest and firmest extension of democratic social control.

To such writers, as have made contribution to this book, I have offered due acknowledgment in the text.

J. H. H.

Church of the Messiah
New York City
August, 1913.

". . . the dearest bond is this,
Not like to like, but like in difference.
Yet in the long years liker must they grow;
The man be more of woman, she of man; . . .
Till at the last she set herself to man,
Like perfect music unto noble words;
And so these twain, upon the skirts of Time
Sit side by side, full-summed in all their powers,
Dispensing harvest, sowing the To-be,
Self-reverent each and reverencing each,
Distinct in individualities,
But like each other even as those who love.
Then comes the statelier Eden back to men:
Then reign the world's great bridals, chaste and calm:
Then springs the crowning race of humankind.
May these things be!"

TENNYSON, in *The Princess.*

Marriage and Divorce

THE problem of marriage and divorce has long been the subject of eager and fluent debate, but it is doubtful if it was ever before so thoroughly "live" a question as it is at the present moment. In the rapid increase to-day in the number of divorces, which are now seven times as numerous in this country as they were forty years ago, and which have already reached the astounding average of over two hundred every day; in the serious and enlightening discussions of the whole question of the relation of the sexes, which have become so common in recent years, and of which the scientific treatises of Havelock Ellis, the popular essays of Ellen Key, the dramas of Brieux and Ber-

nard Shaw, and the novels of H. G. Wells are perhaps the most conspicuous examples; and especially in the widespread interest of the general public in this subject, which seems to reveal a state of mind which is seeking for new standards and new ideals —in all of these things we cannot fail to see a demand for the reopening of the sex-problem which cannot be denied. Whether we like it or not, we must face the fact, in this age of evolutionary thought, that the world in which we live is a world not of fixity but of change; and that even so deep-rooted and cherished an institution as the family and the home cannot escape the all-pervasive influences of development. Miss Key may not be right in anything else, but she is at least right when she asserts, in the opening paragraph of her book on *Love and Marriage,* that "all thoughtful persons perceive that the ideas of the morality

of sexual relations upheld by the religions and laws of the western nations are in our time undergoing a radical transformation."

In the midst of this condition of flux and change, which seems to many people to portend a general breaking up of all our existing standards of marriage and divorce, there are two groups of persons who must be clearly distinguished from the standpoint of their attitude toward this problem.

SACRAMENTARIANS

On the one hand there are those whom we may call, for lack of a better word, the Sacramentarians. These persons look upon the present situation with disgust and alarm, inasmuch as they believe that it indicates a rebellion of human nature against those laws and institutions which God established in the beginning for the happiness and welfare of mankind, and to which it is

necessary that mankind should conform, in all ages and under all conditions, if society is to endure. Marriage to these persons is an institution which has always existed in the past exactly as it exists to-day, and which must continue to exist unaltered in the future. It is a sacrament; by which is meant a sacred union, which has its origin in God, receives its sanction from God, and can only be dissolved by the word of God. In the beginning God decreed that a man should leave his father and his mother, and cleave unto his wife, and "be one flesh;" and whenever a man and a woman so leave their homes and become joined in the bonds of matrimony, they are no longer two persons, but are henceforth one, in a mystical unity which is made possible only by the grace of God. The outward rite is but the symbol of the inward miracle of the spirit; and therefore in every marriage has a phenomenon taken

place, which is altogether beyond the understanding of man, and equally beyond his later interference. Marriage, in other words, as a sacrament, is indissoluble. God has joined these two persons together by the gift of his perfect grace, and no man has the right, or the power, to put these two persons asunder. Hence is any attempt to dissolve a marriage by legal enactments and provisions a deliberate attempt to undo the will of God, to defeat his purposes, and to defy his laws; and any such divorce movement, as that which is before us at the present moment, the clearest kind of indication of the progressing corruption of human nature. All such disregard of the sanctions of custom, tradition, and religion must be interpreted, not merely as a menace to society, but as an invasion of the realm of divine grace, and therefore must be resisted to the very end. Hence the refusal of the Catholic Church to sanc-

tion divorce, except in the rarest cases, and then only by special decree of the Pope as the chosen representative of God. Hence the refusal of the Episcopal Church to remarry divorced persons under any conditions whatsoever. Hence the widespread movement in our day, outside as well as inside the churches, for the enactment of such reformatory laws as will guarantee the suppression of divorce and the maintenance of the existing order.

Nearly all the influential Sacramentarians, as we have called them—that is, those who regard the present marriage forms as permanent and final, and the marriage relation itself as indissoluble—are churchmen, whose views are determined, as we have just seen, by certain theological presuppositions. There is one distinguished leader of public opinion in our time, however, who must be classed in this group, and yet who cannot be described as literally

in this sense a Sacramentarian. This is Dr. Felix Adler, of the Ethical Culture Society, of New York City. Dr. Adler, of course, cherishes no illusions regarding marriage as a sacrament. In his little book on *Marriage and Divorce,* he defines marriage, in a very practical way, as a social device "to perpetuate the physical and spiritual existence of the human race, and to enhance and improve it." He finds the origin of marriage, in other words, just where it belongs, not in the divine fiat of God, but in the social necessities of men. And yet to him, exactly as to the Roman priest, marriage is an indissoluble relation. He would never grant divorce, he tells us, on any conditions, not even on the statutory ground of adultery. Marriage, according to his interpretation, constitutes not a contract, but "a natural tie" between the man and the woman concerned, exactly comparable to the tie which binds

together a father and a son. In the mutual surrender of two persons to one another in the marriage relation, "a tie as strong as that of nature," he says, "has been formed." Therefore, "the husband cannot cut the wife adrift, nor can the wife cut the husband adrift, no matter what faults appear, any more than the parent can cut the child adrift." Just what Dr. Adler means by this description of marriage, it is hard to say. There seems to be a mystical conception here, which is as intangible, if not as superstitious, as the ecclesiastical idea of the sacrament. But whatever the premises, the conclusion is the same in both cases. "This is my position," says Dr. Adler, categorically, "separation, but never divorce."

Here now is one of the two great parties of our day—the party of those who regard marriage as in some sense a sacred institution and therefore indis-

soluble, and who look upon the present tendencies toward the loosening of the bond with fear and reprobation.

LIBERTARIANS OR INDIVIDUALISTS

On the other hand, is the second group to which I have referred—namely, those persons who welcome the present tendencies as a sign of progress in social development, and who can best be described, perhaps, for the purposes of our discussion, as Libertarians or Individualists. These people ignore utterly both the sacramental and the social conception of marriage. They do not believe that this relation should be dedicated to the fulfilment of the spiritual purposes of God, in the sacramental sense; neither do they believe, excepting in an incidental way, that its end should be that "social end" described by Dr. Adler as the perpetuation of "the physical and spiritual existence of the human race." On

the contrary, they neglect the institution altogether, as a spiritual or social reality, and look only upon the individuals who compose it. The marriage relation, to their minds, exists only to serve the needs of individual personalities. Its one supreme object is happiness, joy, fulness of life, all-around physical and psychological experience, for men and women who have but one life to live. So long as marriage serves these purposes for any two persons, it should be continued; but the moment it fails for any reason to meet the needs of either one of the two parties to the contract, it should be dissolved. No dogmatic considerations, such as mean so much to the church, and no social ideals, such as mean so much to a great public leader like Felix Adler, can be allowed for a moment to stand in the way of the demand of the separate personality for self-expression, self-satisfaction, and

self-realization. The right of the individual to abundant life is here the only standard to be recognized; and the liberty of the individual to seek and to find this abundant life in his own way, is the only law to be obeyed. These extreme Individualists, or Libertarians, as we have called them, never tire of pointing out, as Ellen Key puts it in her *Love and Marriage,* that "the present marriage system came into being when the sovereignty of the individual was scarcely respected, much less recognized; when souls were bound by the power of society and when compulsion was society's only means of attaining its ends. Marriage was the halter with which the sexual instinct was tamed; or, in other words, the instinct of nature was ennobled by being brought into unity with social purpose." But "now," she continues, "love has been developed, the human personality has been developed, and woman's

powers have been liberated." This means that our ancient marriage systems, molded into shape when the individual was as yet undiscovered, must be refashioned, so that love may find its own, the personality attain to fulness of development, and woman be free to satisfy her deepest needs of body and soul; and in so far as the tendencies of our time indicate such an endeavor to remake this traditional institution, they are to be welcomed and acclaimed. This is the idea underlying the book of Ellen Key, from which I have just been quoting, with its exposition of "love's freedom," its challenge of the "right of motherhood," its appeal for "free divorce" and "a new marriage law," and its sweeping conclusion that "the ideal form of marriage is the perfectly free union of a man and a woman, who, through mutual love, desire to promote the happiness of each other and of the race." This is the idea also, as will

be remembered, of Bernard Shaw, in the amazingly brilliant and audacious preface of his play on *Getting Married*, wherein he argues that "divorce should be made as easy, and cheap and private, as marriage"; and should be granted "at the request of either party, whether the other consents or not," and without asking any reasons. But the most extreme expression of this individualist point of view is of course found in Ibsen's drama, *A Doll's House*. Readers of this great play will easily recall the painful experience which suddenly brings to the mind of Nora, the wife and mother, the realization of the fact that she has never understood life, never developed her powers, never become a full-rounded personality. "Our house," she says to her husband, in the last act, "has been nothing but a play-room. Here I have been your doll-wife, and the children, in their turn, have been my dolls. I thought it

fun when you played with me, just as the children did when I played with them." But now, she declares, all this is over. "I must try to educate myself"—make myself a woman. And she forthwith announces to her astonished husband, her intention to leave his home, to abandon her children, and to seek the fulfilment of her own life. When he asks her if she would thus forsake her "holiest duties"—her duties to her husband and her children—she replies, "I have other duties equally sacred—my duties to myself;" and when he proclaims, "Before all else you are a wife and a mother," she stops all further discussion, by saying: "That I no longer believe. I believe that before all else I am a human being." And so, cutting loose from every tie of wifehood and motherhood, Nora goes out into the world, a solitary individual, to fulfil her duties toward herself!

Such are the two extreme and contradictory attitudes to-day toward the present tendencies in the field of marriage and divorce—on the one hand, the attitude of the Sacramentarian, who regards marriage as permanent, opposes all divorce, and would do anything in his power to check the modern drift toward what he regards as looser sexual relations; and, on the other hand, the attitude of the Individualist or Libertarian, who regards marriage as permanent only as it permanently subserves the needs and desires of the individual, favors the freest kind of divorce, in order that nothing may hamper the proper development of personality, and welcomes all the promise in our age of forthcoming changes in our ideals of sexual morality.

With both of these attitudes, which have thus been described, I am in very emphatic disagreement. I have sym-

pathy neither with the Sacramentarian and his extreme emphasis upon the sanctity of the institution, nor with the Libertarian and his extreme emphasis upon the rights of the individual. I believe that both of these groups are wrong in matters that are absolutely fundamental; and that to follow either the one or the other to its logical conclusions would serve only to lead us into unhappiness, corruption, and decay.

MARRIAGE AS A SOCIAL INSTITUTION

In the first place it must be obvious that the Libertarians or Individualists make a fatal mistake in ignoring, and even repudiating, the inevitable aspects of marriage as a social institution. They have done well, as we shall see, in emphasizing the importance of the individual soul, and the regard which must be had in the marriage relation, as in every other, for the essentially sacred character of personality. The

rediscovery of the individual, during the period of the Renaissance, may well be taken as marking the opening of modern times in the family as in every other institution of organized society. But to become so obsessed with the philosophy of individualism as to believe that the sex relation concerns nobody but the man and the woman who enter into such relations, and that society has no rights of interference or obligations of regulation, is little short of madness. Ever since the time when man first stood erect, and thus became distinguished from the brute creation from which he had sprung, his union with his mate has been recognized by some primitive bond of social ceremony, and has been restricted by some crude form of social custom. In the beginning the marriage ceremony was little more than a symbol, indicating the inauguration of domestic relations, such as eating to-

gether, sitting by the same fire, or performing jointly some household duty; and the degree of social regulation was the most tenuous imaginable. But as time went on, and humanity advanced in organization and culture, more permanent forms of recognition and control of the relation of the sexes were evolved, until the family became what it is to-day, the most firmly-rooted and permanent institution in all the range of human society. Beginning "in loosely restricted individual action," says Professor Lichtenberger, in his recent illuminating *Study of Divorce,* which is herewith commended as the most valuable introduction to this subject which has yet been written, "the history of marriage reveals the interesting processes by which it has gradually passed, in civilized communities, under the strictest regulation of the united forces of social control."

Now to imagine, in the face of these

centuries of social development all in one unvarying direction, that the social aspects of marriage can suddenly be eliminated or disregarded, and the whole problem of sex relation be made an exclusive matter of the caprice, or the desire, or even the love of individual men and women, is to argue that the experience of the ages is only a delusion and a snare. Such an assertion of individual rights is, after all, only a part of that general anarchistic philosophy which would destroy all the institutions of society, and throw into the rubbish heap all these wonderfully varied forms of social relationships which are the fruitage of centuries upon centuries of blood and sweat and tears. The individual is precious, I have no doubt; but it is the very discovery of this present age that the individual is precious only as he lives in closest association with his fellows, and that the extension of social control means the

expansion and not the repression of personality. The logical doctrine of these Libertarians, who talk so much of the divine right of the individual to happiness and the permanent duty of the individual to himself as a human being, if they be really consistent, is of course that strange doctrine which is commonly known as "free love;" but no one of these persons, so far as I know, has ever advocated this principle. Even Ellen Key, who lays it down as the basic principle of her philosophy of sex that "the Individualist can only be satisfied with the full freedom of love," who declares that "the establishment of a single form for sexual life as the only moral one" is impossible, and who prophesies that the time is coming when "the difference between legitimate and illegitimate children will be abolished in every respect," and the father's home include the children of more than one living mother, and "the

mother's home the children of more than one living father"—even this writer dares not take the step of abandoning all social control of the sex relation. She is perfectly frank in saying that she believes that the time is coming when no marriage law of any kind will be necessary. But she puts this time forward into an indefinite future; and confesses that, for the present at least, "the Individualist is compelled, by the sense of solidarity, to demand a new law for marriage, since the majority is not yet ready for perfect freedom." And Bernard Shaw, whose sterling common-sense is the saving grace of many of his witty and brilliant extravagances, speaks the truth of the whole matter, when he says: "With the person who dreams of doing away with marriage altogether on the ground that it is a private concern between the two parties, with which society has nothing to do, there is no need to deal.

The vogue of the 'self-regarding marriage' has passed; and it may be assumed without argument that unions for the purpose of establishing a family will continue to be registered and regulated by the state. There is, therefore, no question of abolishing marriage; but only a question of improving its conditions."

INDIVIDUALISTIC ASPECTS OF MARRIAGE

But if I disagree with the Individualists, because of their disregard of the social aspects of marriage, so also must I disagree with the Sacramentarians, as I have called them, because of their disregard of the individual rights which are involved in the marriage relation. The idea that marriage cannot, or ought not to, be dissolved, and that divorce under any conditions therefore is an unquestioned evil, is an idea which has its roots in nothing but the old theological conception of marriage as a sac-

rament; and this conception became impossible with the rise of the spirit of the Renaissance and the opening of what is known as modern times. The essential achievement of this period of awakening, as we have seen, was the discovery of the individual and the proclamation of the sanctity of personality. For the first time since the passing of Jesus, it was recognized, in accordance with his teaching, that the soul was the only divine thing in all the world, and that everything of a purely external nature—every form and custom and conventionality, every rite and ceremony and institution—could be justified and perpetuated only as it served the needs and promoted the welfare of individual men and women. With this there began that struggle for intellectual and political and religious liberty, which constitutes all the history of the last three hundred years, and which is only just beginning to attain

[redacted]

centre and not the circumference of authority. The idea of any system of government being sacred, or existing by "divine right," was seen to be absurd, and men began to remake their governmental machinery to suit the needs of modern times. The idea of any church being a sacred institution, and exercising divine authority over the world, was also seen to be absurd, and the hundred and one sects of Protestantism, with their common emphasis upon individual freedom from the domination of ecclesiastical hierarchies, was the immediate result. And so with customs and conventionalities and institutions of every kind. Not one of them was sacred in itself. They were all nothing more nor less than tools, to be used or cast aside by man, according as the needs of his own soul might require and suggest. Hence the liberation of man in our time from the bondage of the past, and his assertion of

his right, under all conditions and in all relationships, to be "the master of his fate—the captain of his soul!"

Now what is true here of all other social relationships is true also of the relationship of marriage. The sacramental idea of marriage has disappeared forever, along with such outgrown superstitions as the divine right of kings and the divine authority of churches. "Those in our day," says the great English philosopher, Professor Caird, as quoted by Professor Lichtenberger, "who talk so much about the sacredness of marriage can know but little of its history." This institution originated not in any divine revelation, but in the primitive and natural relation of the sexes; it is backed not by the authority of any divine word or example, but by the authority of centuries of human experience; it rests not upon any external authority, but "upon the inherent nature of society and of the individuals who

comprise it;" it is sacred not because God established it in the beginning and made it a symbol of his grace, but because it has been sanctified through all the ages by the holy lives of strong men and pure women; and if it endures, it will endure not because God says so, or the church says so, but because it continues to serve the needs of men and safeguard the interests of society better than any other form of sex relationship that has ever been devised. In other words, marriage, in its origin and character, must be regarded, like every other law and custom and institution, not as a divine but as a human thing—not as a sacrament to be worshiped and revered and perpetuated unaltered, but as a social form, to be used so long as it is useful, to be changed when change becomes necessary, to be abolished if abolition seems wise—the highest moral and spiritual needs of the individual soul being the determining factor in every

case! All of which means that marriage, like the Sabbath, was made for man, and not man for marriage. It is on these grounds that I must disagree with these reactionary reformers of our time who would describe marriage as something which in itself, wholly apart from the experiences of men, is sacred and peculiar, and therefore indissoluble. And this objection applies not merely to the churchman, with his superstitious dogma of the sacrament, but also to a man like Dr. Adler, with what I cannot help but regard as his equally superstitious doctrine of "the natural tie." In both cases, we have the subjection of the individual to the tyranny of the outward form or institution, which, to my mind, is irrational and impossible, and against which all revolt is to be welcomed and encouraged. And in so far as the increased divorces of our age and the bold doctrines of such persons as Ellen Key and Bernard Shaw are ex-

pressions of this revolt against divine sanctions, and constitute a demand for a return in this case to the standpoint of human experience and the outlook of human hope, I believe that they are to be approved and not deplored.

Here now is where I believe that we must disagree with both of the two extreme parties which are at present so conspicuous in the discussion of the marriage question. We disagree with the Libertarians, the logic of whose position, as Ellen Key well sees, is "free love," because they neglect the social aspects of the problem; and we disagree with the Sacramentarians, the logic of whose position is the indissoluble marriage, because they neglect the individual aspects of the problem. Marriage is at bottom a social institution—"the legal sanction," says one authority, "of the social custom of the family"—hence the mistake of the Libertarians. But marriage is such an institution only because it marks the

formal union of two individuals who have rights and privileges as well as duties and responsibilities—hence the mistake of the Sacramentarians. And now from the criticism of these two extreme positions on the left and on the right, it must be easy to foresee the middle ground which we must occupy—that "golden mean" which is so often the path of wisdom to the goal of truth.

THE FACT OF SEX

In the first place, let me point out, that we must recognize this question to be at bottom a question of sex. We have learned to disguise this fact very beautifully and most appropriately in our every-day lives; but no understanding of the problem is possible unless we start out with the frank recognition of this fact of sex. This is what takes the whole problem once and for all out of the realm of the arbitrary sanctions of religion or of law, and places it where

it properly belongs, in the realm of human experience. This is exactly the point made by Jesus, it will be remembered, when he discussed the problem of marriage and divorce with his disciples. Avoiding all reference to the Mosaic law, he said: "Have ye not read, that he who made them from the beginning made them male and female, and said, For this cause shall a man leave his father and his mother and shall cleave to his wife; and the two shall become one flesh?"

We must recognize, therefore, at the very outset, that the whole problem which is before us has its origin in that extraordinary physical phenomenon which we know as sex attraction. But when we have said this, we have only begun; for sex attraction between humans is an altogether different thing from what it is between animals. At bottom, of course, in the one case as in the other, there must always remain the

fact of physical relationship; but when we move from the animal to the human, there at once appear certain moral and spiritual elements, which dignify and exalt this relationship, and make it possible for us to glorify it with the poetry and the music of love. Physical passion now becomes subordinate, although it never disappears, and moral sympathy and spiritual devotion assume the place of chief importance. Two lovers are not merely two animals who are desirous of physical union, but they are two spirits who feel their kinship, and desire to go through life together that they may commune together in spirit and in truth. Marriage with them is not a matter of physical expression—flesh with flesh, and bone with bone, as the Bible puts it—but it is fundamentally a matter of spiritual fulfilment, mind with mind and heart with heart. They want to live together, to be together, to talk together, to dream together, to suf-

fer together, to rejoice together, to die together, to be buried together. They are what Plato so wonderfully described —two halves of but a single soul, which cannot be content until they have become united into a perfect whole. As Stephen Phillips has put it so beautifully, in his *Paolo and Francesca,* they are:

> "Creatures bound
> Together by that law which holds the stars
> In palpitating cosmic passion bright,
> By which the very sun enthrals the earth,
> And all the waves of the world faint to the moon."

Now it is love of this kind—the spiritualization of the physical instinct of sex attraction—which constitutes the essence of true marriage. Ellen Key is perfectly right when she declares that "love ought to be the moral ground of marriage." Indeed, I would go further and assert that there is no marriage, in the truest sense of the word, unless love is the exclusive element out of which it is built. The marriage is not the out-

ward ceremony or institution—it is not the plighting of the troth, the giving of the ring, or the speaking of the benediction. These are but the outward symbols of that marriage which, if it really exists at all, is an inner reality already consummated, "a sacred union of hearts, which the church may bless and the state make legal, but that neither can create nor annul." The true marriage is nothing more nor less than a union of souls in the spirit of perfect love; and where this spirit is absent, or is adulterated by an admixture of some other moral element, the marriage is just to that extent so much the less a true marriage. It is because we are beginning to realize this fact that we are feeling more and more abhorrence every day for those marriages which are bound for reasons of family, or convenience, or worldly station. It is because of this fact that we are learning to become impatient of those arbi-

trary divisions of mankind into social classes, which make it practically impossible for a man in one rank of life to marry a woman in another, regardless of the bond of love which may unite them. It is because of this fact also, that we are beginning to understand, little by little, that an essential condition of true marriage in this modern world is the economic independence of women, which alone will eliminate what Bernard Shaw well calls "the central horror," of thousands of women earning their living by being wives as other thousands earn their living by being prostitutes. Any motive—be it a desire to have a home, or to keep property intact, or to perpetuate the family, or to gain a fortune, or to win a title, or to achieve social standing—any motive, I say, except that of love, which leads a woman or a man into the marriage relation, constitutes in itself a nullification of the marriage at the very out-

set. However regular may be the legalization of such a union by the state, however formal may be the blessing of such a union by the church, this union, in the last analysis after all, is nothing but indecency and immorality made respectable. It is a profanation of everything that is precious and beautiful in the most intimate and sacred relationship that human life affords, and therefore is it something to be fought by all the available weapons of ridicule and scorn and denunciation. True marriage means love between mate and mate—nothing more and nothing else. Where love is there is marriage—where love is not, there is prostitution. Love must be the corner-stone of the home, it must be the threshold of the door, it must be the fire upon the hearth, it must be the light in the eyes and in the hearts of the husband and the wife. Love and love alone, as Sir Walter Scott has well said,

"is the secret sympathy,
The silver link, the silken tie,
Which heart to heart and mind to mind,
In body and in soul can bind."

SOCIAL CONTROL AND ITS LAWS

Here now in the fact of sex as spiritualized into love is the basis of all marriage; which means that marriage, in the last analysis, must be regarded as individualistic. But this is only half of the story. For no sooner are a man and a woman united in the bonds of love, than a social fact has been consummated, and a social institution has been established. These two individuals, who are now married, are no longer individuals in the technical sense of that word. Each has merged his life with someone else, and, in so doing, has created the conditions of society, which are none other than the conditions of association and coöperation. The very moment a man links his life with that of a woman, or a woman links

her life with that of a man, that moment society has a most vital kind of interest at stake, and has a right therefore to insist upon being made a party to the contract. The idea, as Bernard Shaw has said, that "marriage is a private concern between two parties with which society has nothing to do," is ridiculous: for however true it may be that the origin of marriage is to be found in the heart of the individual, it is equally true that the results of marriage are to be found in the fabric of the social whole. The blessings of this marriage will be social blessings, the ills of this marriage will be social ills. Therefore has society never consented to leave the union of the sexes to the personal desires and whims of the individuals concerned. Always has it insisted upon stepping in and determining for itself how this union shall be joined, how it shall be maintained, and how it shall be utilized for the higher interests of the social

whole. Experience has taught us, apparently for all time—for I can imagine no conditions in the future which will alter this fact—that "the social control of the individualistic marriage is necessary for social welfare." And this means to-day, three things.

It means, in the first place, that society shall hold and exercise the right to forbid the marriage of the unfit. Nothing is more important, in our modern treatment of the question of marriage and divorce, than to use our powers of social control to prevent many people from marrying at all—those, namely, whose marriage, for one reason or another, can be "nothing but a tragedy and whose parenthood is a social danger and disgrace." The feeble-minded and the epileptic, the insane and the criminal, those afflicted with the loathsome diseases of vicious living, the degenerate and the abnormal of every kind, should be absolutely for-

bidden the privilege of the sex-relation, that there may be permanently removed "from the currents of family descent," as one authority has put it, "the poisonous elements of physical and psychological" decay. The police power of the state is ample here; for it is just as necessary—or some day we shall see that it is just as necessary—to prevent these individuals from "bringing forth seed after their kind," as it is necessary to isolate the victim of small-pox or yellow fever, or to forbid the marriage of near relatives.

In the second place, the social control of the individualistic marriage means not only the forbidding of the marriage of the unfit, but also the regulation of the conditions of marriage for the fit. Such rigid restrictions should be thrown about the union of every man and every woman, that all hasty, ill-considered, fanciful, and ignorant marriages would be rendered improbable if

not impossible. It should be made necessary for such a period of time to elapse between the betrothal and the wedding that there will be some assurance at least that some degree of lasting affection between the two persons is present. It should be required that both parties be given adequate instruction upon sex problems, that they may know something of the realities of the state into which they are about to enter. And it should be required also that they receive some adequate training for the meeting of the responsibilities of this state, which is more momentous for the interests of the individuals concerned, to say nothing of society at large, than any trade or profession, for which a training of years is thought obligatory. In other words, society should take upon itself to provide that preparation for marriage be as definite a part of an education as preparation for any other of the infinitely less important walks of

life; and then see that nobody is allowed to enter the marriage state who has neglected this education. I hope that some day the time will come when a marriage license will give the same guarantee as to the fitness of the recipients to exercise its privileges as the licenses which are now given for the practice of medicine and law. The stability of the family depends not half so much upon keeping people together who have once married, as upon preventing the marriage of these people until they have given some reasonable assurance of their knowledge of conditions, their seriousness of purpose, and their sincerity of affection.

And lastly, the social control of the individualistic marriage means, "the return to the early New England Protestant requirement for a civil marriage as the true and only legalization" of the union. This is the epoch-making recommendation of Mrs. Anna

Garlin Spencer, in her recent book on *Woman's Share in Social Culture.* "This civil service," says Mrs. Spencer, "should be limited in form to such words as persons of all religious faiths could conscientiously use; it should be performed in such places as would safeguard privacy and protect from all trivial and coarse associations; and it should be performed only by special magistrates set apart for this important function and capable of properly representing the dignity and power of the state." Mrs. Spencer recommends that "the beautiful 'Halls of Marriage' of some of the European Guild buildings might be reproduced in the United States;" and she urges that "justices, who were no longer equal physically to the hardest work of the courts, but who had proved themselves of honorable character and distinction in public service, be set aside for this task as a crowning honor and public duty." Of course, such a civil

service as this would not eliminate any such additional religious service as one might desire for the satisfaction of spiritual sentiment; but it would be recognized as the necessary preliminary of such religious service, and thus bear certain testimony to the everlasting supremacy of society over the relation of the sexes.

Here, then, is the true doctrine of marriage—a relation of one man with one woman, and of one woman with one man, determined and maintained by the sentiment of love, and recognized and regulated, for the sake of the general welfare, by social control.

DIVORCE

And now it remains only to speak of divorce—and this can be treated very briefly, since the true doctrine of divorce is a necessary corollary of the true conception of marriage.

We have laid it down here as a basic

principle, it will be recalled, that love is the only valid basis of marriage—that any marriage which is determined and maintained by any other sentiment than that of the purest and finest affection, is in reality no marriage at all. In other words, we have declared that the natural bond of love is the essential part of the marriage relation, and not the nominal bond of legal sanction; and we have urged that public sentiment become so rigid in its ideals in this regard that it shall require "that the legal bond should not be entered into unless it represents the natural bond." This is the rule formulated by Herbert Spencer, in his *Principles of Sociology*, as the line of progress which should be followed in the development of marriage, and the attainment of this goal will mark a conception of the marriage relation which will be ideal.

Now, we only have to reverse this doctrine of marriage in order to get

what I regard as the true doctrine of divorce. If we believe that marriage should not be entered into at all, save as it represents the natural bond of pure affection, then does it not follow, "as the night the day," that we should hold, as Herbert Spencer puts it, in so many words, "that the maintenance of the legal bond is improper if the natural bond ceases?" No one of us would think it right in the beginning to force a man and a woman to live together as husband and wife who had no love for one another, or worse still, perhaps, had nothing but contempt and hatred for one another. This would be nothing but a reversion to the barbarism of marriage by capture, or barter, or family decree. But, if this is the case, why should we think it right to force a man and a woman to continue to live together as husband and wife, after love has been destroyed by cruelty or betrayal, and hatred of the worst kind has

been developed? We have already got to the point, as I have said, when we condemn the joining of marriage relations when the union of affections does not exist. Why also, should we not condemn the continuance of marriage relations, when the union of affections, for one reason or another, has disappeared? We cannot too often remind ourselves that the essential thing in marriage is not the letter but the spirit, not the legal form but the spiritual union; and this being the case, when the spirit is dead and the union of affection is no more, the dissolution of such marriages is less immoral than their continuance. And we must remember also, what has been pointed out so many times, by nearly all writers upon this subject, that divorce, after all, is nothing in itself but an outward recognition of what has already inwardly taken place. The tragedy, or the disgrace oftentimes, is the broken marriage, the death of love;

and this tragedy, or disgrace, exists in spite of us, whether the legal procedure of divorce is actually gone through with or not. In most cases, it is simple honesty, to say nothing of morality and decency, to sever the marriage relation outwardly, when it has already been severed inwardly. Nor would mere separation, and not divorce, as Felix Adler pleads, avail in such cases. "The tendency in all fields of thought and effort," says Mrs. Spencer, in the book referred to above, "is away from 'eternal punishment' either in this world or the next, and in the direction of self-recovery and of trying life experiments over again in the hope of a better outcome." And this is as true of marriage as of every other relation of human life.

I believe therefore in the granting of divorce, in order that a marriage may be ended legally, when it has already been ended morally. But I do

not believe, let me add, in any such free and easy conditions of divorce as those advocated by Ellen Key and Bernard Shaw and other rampant Individualists. I believe that the process of divorce should be as solemn, and in many ways as difficult, as the original process of marriage. Special courts and magistrates should be provided for this process, which should have all the sanctity and privacy of the confessional; a rigid law should command a pause of time, for reconsideration and meditation, between the application for the divorce and its granting; every effort should be made to remove difficulties, reawaken love and a sense of responsibility, and thus to rehabilitate the family. But if, after all this has been done, the demand for a divorce is still insistent, society must consent.

CONCLUSION

Nor need we have any fear that the

granting of divorces under these conditions will menace the stability of the family or threaten the integrity of the state. The essence of all true marriage, as we have said, is love—and love is the greatest thing in all the world! Let full freedom of choice be exercised in mating—let all worldly and material considerations as incentives to marriage be eliminated—let the union be protected and guaranteed by such regulations as we have laid down—let love be cherished and encouraged in every youthful heart, and then left to do its perfect work—and I believe that the instincts which have prompted the formation of the union may be safely trusted to safeguard its continuance. If these instincts of affection cannot cement the union for good and all, no legal reinforcements or restraints will ever avail. Spiritual ties, after all, are stronger than any that can be forged by legislatures or courts, and

if these will not hold of their own divine strength, we might as well give up the fight. Love is our final resource, and I for one have no fear that it will ever wholly fail.

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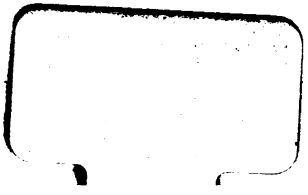

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